

House Bill 163

By: Representatives Harbin of the 118th, Sims of the 119th, and Anderson of the 117th

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 3 of Title 17 of the Official Code of Georgia Annotated, relating to limitations on prosecutions, so as to provide that prosecutions may commence at any time for the offenses of cruelty to children, rape, sodomy, aggravated sodomy, statutory rape, child molestation, aggravated child molestation, enticing a child for indecent purposes, and incest when the victim is younger than 16 years of age at the time of the commission of the crime; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 3 of Title 17 of the Official Code of Georgia Annotated, relating to limitations on prosecutions, is amended by revising Code Section 17-3-1, relating to limitation on prosecutions generally, as follows:

"17-3-1.

(a) A prosecution for murder may be commenced at any time.

(b) ~~Prosecution~~ Except as otherwise provided in Code Section 17-3-2.1, prosecution for other crimes punishable by death or life imprisonment must be commenced within seven years after the commission of the crime except as provided by subsection (c.1) of this Code section; provided, however, that prosecution for the crime of forcible rape must be commenced within 15 years after the commission of the crime.

(c) ~~Prosecution~~ Except as otherwise provided in Code Section 17-3-2.1, prosecution for felonies other than those specified in subsections (a), (b), and (c.1) of this Code section must be commenced within four years after the commission of the crime, provided that prosecution for felonies committed against victims who are at the time of the commission of the offense under the age of 18 years must be commenced within seven years after the commission of the crime.

(c.1) A prosecution for the following offenses may be commenced at any time when deoxyribonucleic acid (DNA) evidence is used to establish the identity of the accused:

- (1) Armed robbery, as defined in Code Section 16-8-41;
- (2) Kidnapping, as defined in Code Section 16-5-40;
- (3) Rape, as defined in Code Section 16-6-1;
- (4) Aggravated child molestation, as defined in Code Section 16-6-4;
- (5) Aggravated sodomy, as defined in Code Section 16-6-2; or
- (6) Aggravated sexual battery, as defined in Code Section 16-6-22.2;

provided, however, that a sufficient portion of the physical evidence tested for DNA is preserved and available for testing by the accused and provided, further, that, if the DNA evidence does not establish the identity of the accused, the limitation on prosecution shall be as provided in subsections (b) and (c) of this Code section.

(d) Prosecution for misdemeanors must be commenced within two years after the commission of the crime."

SECTION 2.

Said chapter is further amended by revising Code Section 17-3-2.1, relating to limitation on prosecution of certain offenses involving a victim under 16 years of age, as follows:

"17-3-2.1.

(a) ~~If~~ For crimes committed during the period beginning on July 1, 1992, and ending on June 30, 2009, if the victim of a violation of:

- (1) Code Section 16-5-70, relating to cruelty to children;
- (2) Code Section 16-6-1, relating to rape;
- (3) Code Section 16-6-2, relating to sodomy and aggravated sodomy;
- (4) Code Section 16-6-3, relating to statutory rape;
- (5) Code Section 16-6-4, relating to child molestation and aggravated child molestation;
- (6) Code Section 16-6-5, relating to enticing a child for indecent purposes; or
- (7) Code Section 16-6-22, relating to incest,

is under 16 years of age on the date of the violation, the applicable period within which a prosecution must be commenced under Code Section 17-3-1 or other applicable statute shall not begin to run until the victim has reached the age of 16 or the violation is reported to a law enforcement agency, prosecuting attorney, or other governmental agency, whichever occurs earlier. Such law enforcement agency or other governmental agency shall promptly report such allegation to the appropriate prosecuting attorney.

~~(b) This Code section shall apply to any offense designated in paragraphs (1) through (7) of subsection (a) of this Code section occurring on or after July 1, 1992.~~ For crimes committed on and after July 1, 2009, if the victim of a violation of:

62 (1) Code Section 16-5-70, relating to cruelty to children;
63 (2) Code Section 16-6-1, relating to rape;
64 (3) Code Section 16-6-2, relating to sodomy and aggravated sodomy;
65 (4) Code Section 16-6-3, relating to statutory rape;
66 (5) Code Section 16-6-4, relating to child molestation and aggravated child molestation;
67 (6) Code Section 16-6-5, relating to enticing a child for indecent purposes; or
68 (7) Code Section 16-6-22, relating to incest,
69 is under 16 years of age on the date of the violation, a prosecution for such crimes may be
70 commenced at any time."

71 **SECTION 3.**

72 This Act shall become effective on July 1, 2009.

73 **SECTION 4.**

74 All laws and parts of laws in conflict with this Act are repealed.